

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

UNITED STATES OF AMERICA, ex rel.)
CAMERON JEHL,)
)
Plaintiffs,)
)
v.)
)
GGNSC SOUTHAVEN LLC D/B/A GOLDEN)
LIVINGCENTER-SOUTHAVEN; GGNSC)
ADMINISTRATIVE SERVICES LLC D/B/A)
GOLDEN VENTURES; AND GGNSC)
CLINICAL SERVICES LLC D/B/A GOLDEN)
CLINICAL SERVICES,)
)
Defendants.)

No. 3:19-cv-091-GHD-JMV

**PLAINTIFF-RELATOR'S MEMORANDUM IN SUPPORT
OF MOTION TO APPROVE SECURITY FOR APPEAL AND
DEPOSIT THE FUNDS IN THE REGISTRY OF THE COURT**

In yesterday's motion to approve security for appeal [doc. 382], the undersigned stated that the Defendant had yet to state its position on the motion. However, shortly after filing, the undersigned received an email stating that the Defendant still believed the appropriate amount of the security should be \$1,367,388.91 rather than the Plaintiff-Relator's proposed amount of \$1,192,807.15.

Both parties agree that the amount presently owed is \$1,139,490.76, consisting of attorney's fees that were awarded, costs that were awarded, and interest thus far on both. The Plaintiff proposes adding another \$53,316.39 for an additional year of interest while the appeal is pending. The Defendant reaches its figure by adding 20% (or \$227,898.15) of the amount presently owed. In an email to the undersigned earlier this week when discussing potential appeal

bond amounts, defense counsel pointed to potential additional attorney's fees if it prevailed on the appeal and cited three cases requiring the 20% add-on as part of the appeal bond: *Little v. Transocean Offshore U.S.A., Inc.*, No. CIV.A. 02-3489, 2004 WL 162903, at *1 (E.D. La. Jan. 21, 2004); *Moss v. Princip*, No. 3:14-CV-3088-BF, 2016 WL 9245114, at *3 (N.D. Tex. July 20, 2016); *Lyondell Chem. Co. v. Albemarle Corp.*, No. 1:01-CV-890, 2008 WL 11339934, at *3 (E.D. Tex. Jan. 22, 2008).

But in the first two of those cases, from the Eastern District of Louisiana and the Northern District of Texas, the court was following a local rule requiring that 120% of the amount owed be posted for an appeal bond. In the third, the court in the Eastern District of Texas deferred to the local rule in the Northern District which it described as its "sister district." There is no such local rule in the Northern and Southern Districts of Mississippi. With respect to the Defendant's apparent contention that the 20% should cover potential attorney's fees, "[t]he majority position . . . appears to be the amount of a supersedeas bond should not include expected additional attorneys' fees." *BRPS LLC v. Tenney Realty Services LLC*, No. CV-18-08249-PCT-ROS, 2020 WL 8812771, at *1 (D. Ariz. 2020). In that case, the court followed the majority position and mentioned two particular factors:

BRPS's appeal is not frivolous. . . . In addition, there is no indication BRPS would be unable to satisfy an additional award of attorneys' fees at the conclusion of the appeal. Therefore, security in the amount of the judgment, plus a small amount for interest is appropriate.

Id. at 2.

Here, the appeal also is not frivolous for multiple reasons, including those set forth in the Motion for Reconsideration [doc. 353]. Also, the Plaintiff two days ago filed a motion to alter or amend [doc. 381] on the basis of two arguments that the Court failed to address previously but that would reduce the current fee award by several hundred thousand dollars. Those arguments ---

which might be accepted by this Court and would be the subject of an appeal if not --- are not frivolous. And there is no indication that the Plaintiff would be unable to satisfy any additional award of fees at the conclusion of the appeal.

In this case, Plaintiff's proposed bond would include the amount of the judgment, interest up to the present, and interest for another year to come. As in the *BRPS* case just cited, that amount is sufficient. Accordingly, the Plaintiff's motion to approve security in the amount of \$1,192,807.15 should be granted.

Respectfully submitted,

/s/ Robert B. McDuff
Robert B. McDuff (MSB # 2532
Law Office of Robert B. McDuff
767 North Congress Street
Jackson, MS 39202
601.259.8484 (Telephone)
rbm@mcdufflaw.com

Counsel for Plaintiff-Relator

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2024, the foregoing was served on all counsel of record by operation of the Court's electronic filing system.

/s/ Robert B. McDuff -
Counsel for Relator